

Application Serial No. 10/802,218
Reply to Office Action of October 30, 2005

PATENT
Docket: CU-3588

REMARKS/ARGUMENTS

In the office action mailed October 30, 2006, the specification was objected to because of minor informalities on pages 2, 6 and 7. Claim 9 was rejected under 35 U.S.C. §112, ¶2 because the definite article "the" on line 2 should have been the indefinite article --a--.

Claims 1, 2 and 4 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. patent number 2,842,793 to Hurd, which is referred to hereafter to as "Hurd" or "the Hurd reference."

Claims 1, 2, 4-6 and 9 were rejected under 35 U.S.C. §102(a) as being anticipated by German patent DE 10108639 to Albert, which is referred to hereafter as "Albert" or "the Albert reference."

Claims 1-6 were rejected under 35 U.S.C. §102(a) and 102(e) as being anticipated by U.S. pre-grant publication number 2003/0140450 by Pineschi, which is referred to hereafter as "Pineschi" or "the Pineschi reference."

Claims 9-11 were rejected under 35 U.S.C. §103(a) on combinations of the Hurd reference, the Albert reference and the Pineschi reference.

Claims 7 and 8 were objected to as being dependent upon a rejected base claim but otherwise allowable.

In response to the office action, and more particularly, in response to the Examiner's objections to the specification, typographical corrections have been made on page 2, line 12; page 6, line 2; and page 7, line 24, as set forth above.

In response to the Examiner's rejection of claim 9 under 35 U.S.C. §112, ¶2, claim 9 has been amended to change "the" to --a-- in line 2.

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Referring now to the rejections made under §102, after carefully considering the references cited by the Examiner and after carefully the pending claims, the Applicant respectfully submits that the claims are not anticipated by Hurd, Albert or Pineschi, nor are any of the pending claims rendered obvious by any of Hurd, Albert or Pineschi because none of the references show all of the limitations of the independent claims.

In order to properly reject a claim under any section of 35 U.S.C. §102, MPEP §706.02 requires that the reference cited by an examiner must show each and every limitation of the claim, either explicitly or implicitly. Put another way, a claim rejection made under 35 U.S.C. §102 is improper if a cited reference does not show each and every claim limitation, either implicitly or explicitly. In this case, none of the references cited by the Examiner show the claim 1 limitation that requires a crevice attachment and the upholstery attachment to be "formed integrally with the accessory body." (Emphasis added.)

Referring to independent claim 1, the claim affirmatively recites an accessory body, a crevice attachment, upholstery attachment and a dusting attachment. Importantly, the claim requires the crevice attachment and upholstery attachment to be "both formed integrally with the accessory body." (Emphasis added.) The claim thus requires the claimed, crevice attachment, upholstery attachment and accessory body to all be "formed integrally" with each other, which is also the structure shown in the figures of the application.

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Referring now to both the Hurd reference, and in particular to paragraph 5 of the office action, the Examiner contends that Hurd teaches each and every limitation of claim 1. An inspection of the figures of Hurd, however, and a review of the text of Hurd, reveal that Hurd does not teach a crevice attachment. It also does not teach an upholstery attachment. Hurd absolutely does not teach structures or devices that are "formed integrally" with each other, and which could be construed as a crevice attachment and an upholstery attachment.

Referring specifically to column 1, lines 69-72 of Hurd, those lines clearly state that the structure shown in Figures 1-5 is "formed...from upper and lower portions...secured together by screws." (Emphasis added.) Thus, the structure shown in the Hurd reference is not "formed integrally" as claim 1 requires; they are assembled together with screws.

The floating nozzle 14 of Hurd, which the Examiner contends to be the claimed "crevice attachment" extends *the entire length* of the body 10 of the Hurd device. That the floating nozzle 14 of Hurd is as wide as the body 10 is significant because its width belies its use as a crevice attachment: there are no "crevices" into which the floating nozzle 14 would fit. Moreover, since the structure of Hurd is held together by screws, the floating nozzle 14 cannot be seriously considered to be a "crevice attachment" since it can never be detached from the body 10.

The Examiner also contends that element 17 of Hurd corresponds to the upholstery attachment of claim 1, however, element 17 of Hurd is described in

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column 2, lines 2-3 as being two sections 17 that form a nozzle. Since element 17 of Hurd is actually two sections, they cannot possibly be "formed integrally" as claim 1 requires. Lastly, the Examiner contends that element 35 of Hurd corresponds to the claimed "dusting attachment" however, in the Hurd reference, element 35 is described as a floating brush. The text of Hurd in column 2, lines 32-44 also make it very clear that element 35 is not detachable.

Since the elements shown in the Hurd reference are all separate structures that are assembled as pieces of the cleaner body 10, which is held together by screws, the Examiner cannot seriously contend that Hurd anticipates claim 1, particularly the claim limitation that requires the crevice attachment and upholstery attachment to be formed integrally with the accessory body. The rejections of the claims under §102 and §103 because of the Hurd reference was improper and must be withdrawn.

Referring now to the Albert reference, which is German patent DE 10108639, the Albert reference has an English-language U.S. counterpart, the number of which is 6,820,305. In column 5, lines 30-34 of U.S. patent 6,820,305, the structure of the Albert reference asserted by the Examiner to anticipate claims 1-2, 4-6 and 9 is clearly described as being assembled from separate pieces. More particularly, in column 5, lines 30-44 of U.S. patent 6,820,305, Albert states that the accessory unit 1, "accommodates a crevice nozzle 2, a furniture nozzle 3, and a furniture brush 4. The crevice nozzle 2, the furniture nozzle 3, and the furniture brush 4, are connected either in a force-fitting or in a form fitting manner to the the accessory unit 1"

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(Emphasis added.) Thus, Albert does not satisfy the limitation of claim 1 that requires the components to be formed integrally.

By the description of the English-language U.S. counterpart to German patent DE 10108639, none of the devices shown in DE 10108639 are "formed integrally" as claim 1 requires. Unless the Examiner can provide a certified translation of DE 10108639 that states otherwise, none of the pending claims are anticipated by DE 10108639. The rejection of claim 1 under §102 because of Albert was improper and must be withdrawn.

Referring now to the Pineschi reference, paragraphs [0019] through [0027] make clear that the components described in Pineschi are also not "formed integrally." The accessories 9 and 10 of Pineschi are clearly described in paragraph [0024] as being fitted together with a "twist and slide" action. The "accessories 9 and 10" are stated as being "fitted... onto the ...distal end 5 of the tubular body 3." (Emphasis added.) Fig. 1 of Pineschi also clearly shows elements 9 and 10 as being separate components, which are pivoted about an axis. Thus, Pineschi cannot possibly satisfy the limitation of claim 1 that requires the crevice attachment and the upholstery attachment to be "formed integrally" with each other.

In sum, none of the references cited by the Examiner satisfy each and every limitation of the pending claim 1. None of the cited references anticipate any of the claims under 35 U.S.C. §102. Claim 1 is therefore allowable. Since the other pending claims all depend from claim 1, each of them is also allowable under both §102 and §103.

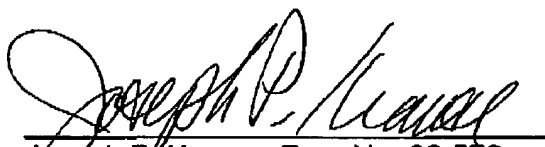
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Since the Applicant has distinguished the claims from the art cited by the Examiner, claims 1-6 and 9-11 are in condition for allowance. Claims 7 and 8, which were objected to, are also allowable for the reasons set forth herein.

Respectfully submitted,

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